

First Things First - Arizona Early Childhood Development and Health Board Tribal Government Consultation Policy

INTRODUCTION – WHO WE ARE:

The purpose of First Things First is to aid in the creation of a system that offers opportunities and supports for families and communities in the development of all children so they can grow up to be healthy and ready to succeed when they enter school. Our work involves community partners, volunteer Regional Partnership Councils for early childhood planning and Arizona Tribes who, working together, will help create a system that grows and sustains a network of early childhood programs and services. We all share the belief that Arizona's children are our greatest asset and deserve opportunities for positive health and developmental outcomes. To this end, a Tribal Government Consultation Policy has been established to provide direction for this task.

BACKGROUND:

We recognize that a unique government-to-government relationship exists between Indian Tribes, the Federal Government and State Governments. This policy establishes the basic principles governing the Arizona Early Childhood Development and Health Board (AZECDH), also known as, and hereinafter referred to as, First Things First, and its work with Arizona Tribal Governments.

- ❖ First Things First recognizes **Tribal Sovereignty** as the inherent authority of American Indian Tribes to govern themselves. Current federal policy in the United States recognizes this sovereignty and stresses the government-to-government relations between the Federal Government and the American Indian Tribes.
- ❖ First Things First is committed to operating within a **government-to-government** relationship with federally recognized American Indian Tribes, and to advance self-governance for such Tribes. First Things First, to the greatest extent possible and to the extent permitted by law, will consult with Tribal Governments prior to taking actions that have substantial direct effects on federally recognized Tribes. In order to ensure that the rights of sovereign Tribal Governments are fully respected, all such consultations are to be open and candid so that Tribal Governments may evaluate for themselves the potential impact of relevant proposals.

First Things First accepts Tribal Governments as the appropriate form of government in Indian country through the adoption of the “Tribal **Self-Determination**” policy.

- ❖ Self-Determination and Education Assistance Act of 1975 (Self-Determination Act) entitles Tribes and Inter-Tribal consortia to take over administration of federal programs for the benefit of their members through “self-determination contracts” with the Federal Departments of the Interior and of Health and Human Services.
- ❖ First Things First acknowledges the rich cultural diversity of Arizona’s twenty-two federally recognized Tribes. According to the 2000 Census, there are over 250,000 Native Americans living in Arizona. Reservations and Tribal communities comprise over a quarter of Arizona's lands.
- ❖ First Things First acknowledges self governance as expressed by the right of Arizona Tribes to make their own determination whether or not to become their own Region.
- ❖ First Things First acknowledges self-determination by Arizona Tribes and recognizes Arizona Tribes as owners of their indigenous knowledge, cultural resources and intellectual property.
- ❖ First Things First acknowledges that the United States Government has a unique relationship with American Indian Tribes as set forth in the Constitution of the United States, treaties, statutes, court decisions, executive orders and memoranda.

AUTHORITY:

State

- State of Arizona Executive Order 2006-14---Consultation and Cooperation with Arizona Tribes
- Arizona Early Childhood Development and Health Initiative, Title 8, Arizona Revised Statutes

Federal Government

The special relationship between the Federal Government and American Indian Tribes is affirmed in statutes, legislation and various Presidential Executive Orders including, but not limited to:

- The Snyder Act, P.L. 67-85
- Indian Self-Determination and Education Assistance Act, P.L. 93-639, as amended
- Native American Programs Act, P.L. 93-644, as amended
- Indian Health Care Improvement Act, P.L. 94-644, as amended
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193

- Native American Languages Act of 1990, P.L. 104-477
- Presidential Executive Memorandum to the Heads of Executive Departments, April 29, 1994
- President Bush's Executive Order on American Indian and Alaska Native Education, April 30, 2004
- Presidential Memorandum, Government-to-Government Relationships with Tribal Governments, September 23, 2004

DEFINITIONS:

Consultation—Consultation occurs when the Chairperson, Vice-Chairperson, Member of the Board of First Things First, Executive Director, Deputy Executive Director or their designee and a recognized Tribal President, Governor, Chairperson, Elected Tribal Leader or their designee formally meet or exchange written correspondence to discuss issues concerning either Government. Consultation shall occur on a regular basis and may occur on an “as needed” basis as well—when the Tribes and First Things First raise issues that need to be addressed. Either party may enter into consultation when issues are identified.

Federally Recognized Tribe—An American Indian Tribe, Alaska Native Tribe, Band, Nation, Pueblo, Village or Community with whom the Federal Government maintains an official government-to-government relationship, established by a federal treaty, statute, executive order, court order or a federal administrative action is considered a federally recognized Tribe. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of Federally Recognized Tribes.

Government-to-Government Relationship—The term was first used by Tribes and the Federal Government and is grounded in treaties, statutes and executive orders. It is also used to describe the relationship between Tribes and State Governments.

Joint Tribal/State/Federal Workgroup and/or Task Forces—A group composed of elected Tribal officials and First Things First officials who will work on a particular policy, practice, issue and/or concern.

Tribal Officials—Tribal Officials are considered elected or duly appointed Officials of Federally recognized American Indian Tribes.

Tribal Liaison—Tribal staff member designated by Tribal Leaders that is knowledgeable about Tribal programs and services, has access to the Elected Leaders of the Tribe and is authorized to maintain communication with First Things First and Regional Partnership Councils.

Nation, Tribes, Indian Communities—An Indian Tribe, Band, Nation or Community including any Alaska Native Villages, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (25 U.S.C. Sec. 450e).

RESPONSIBILITY:

The responsibility for the administration and enforcement of the First Things First Tribal Government Consultation Policy lies with the Executive Director, Deputy Executive Director and Assistant Directors, working with and through the First Things First Tribal Liaison.

OBJECTIVES OF THIS POLICY INCLUDE:

1. To formalize the requirement of First Things First to seek consultation and the participation of Arizona Federally Recognized Tribes with existing, potential and new early childhood development and health policies and actions that would have a significant impact on Arizona Tribes.
2. To establish consistent communication with Tribal Leaders of each Tribe and the leadership of the Board and staff of First Things First.
3. To ensure consistent application of the Tribal Government Consultation Policy among all First Things First staff.
4. Ensure that information and data regarding Tribal members are reviewed with the Tribe prior to release or use.

CONSULTATION PROCESS:

First Things First will engage in consultation with Arizona Tribes about existing, changing or new policy issues affecting Tribes. First Things First, in communication with the Tribe, must determine the level of consultation necessary, whether through correspondence, meetings or Notice of Public Comment.

1. Tribal Consultation will be held to solicit Tribal comments and recommendations on policy matters affecting Arizona Tribes. These sessions whether work sessions, forums or meetings will provide the opportunity for meaningful dialogue and effective participation by Arizona Tribes.
2. Arizona Tribes may meet one-on-one with the Executive Director, Deputy Executive Director, Assistant Directors or designated representative to consult on First Things First

issues specific to the Tribe, but should recognize that decisions for First Things First can only come from the Board and/or Executive Director.

3. When a Tribal Leader or appointed Official requests additional information or provides feedback regarding an issue, First Things First shall communicate, verbally or through written correspondence, with the Official to provide a timely and substantive response.
4. First Things First may provide written notice and a solicitation for feedback to non-Tribal organizations such as the Advisory Council on Indian Health Care, the Inter-Tribal Council of Arizona, Indian Health Services, Native Connections and Urban Indian Health Care Programs/Indian Centers and other state agencies such as the Arizona Departments of Education, Economic Security, Health Services, Arizona Health Care Cost Containment System or the Commission on Indian Affairs. Such communication does not substitute for direct communication with Arizona Tribes nor substitute for each Arizona Tribe making its own determination of what is best for the Tribe and its people.
5. The First Things First Tribal Consultation Policy shall be posted on the agency website, filed with the Office of the Governor and offered to Tribes for posting as they deem appropriate.

ONGOING PARTNERSHIPS:

Trust between and among Arizona Tribes and First Things First is essential in building a good consultative relationship. To establish and maintain trust:

- First Things First will meet with Arizona Tribes on a consistent basis as mutually agreed upon. If follow-up is needed, the First Things First Tribal Liaison or other designated staff will provide the follow-up.
- First Things First is committed to developing cooperative relationships with Arizona Tribes. First Things First will invite Tribal Government Officials and Early Childhood Representatives to training programs when and where appropriate and encourages Tribes to request participation if they so desire.
- First Things First will solicit Tribal Officials and Leaders for participation on Partnership Councils, special committees and work groups that will either directly or indirectly affect Arizona Tribes.
- First Things First will utilize electronic communication to the extent possible—that supports interactive communication and understanding with Tribal Governments.

REPORTING:

By June 30th of each year, First Things First shall review their Tribal Consultation Policy and submit an electronic report to the Governor and the Legislature describing all actions taken as a result of the implementation of the Tribal Consultation Policy. Electronic copies of these annual

reports shall be provided to the Arizona Commission of Indian Affairs, which will make them available to Arizona Tribal Leaders.

This Policy is effective on the date of signature by the First Things First Executive Director
APPROVED BY:

J. Elliott Hibbs
Executive Director

Date

SUMMARY

This policy is reflected in the First Things First Agency Strategic Plan, which confirms the belief that First Things First will develop and maintain a culture of strong collaboration and cooperation both internally and externally with the Board, staff, Regional Council members, Arizona Tribes and community partners. First Things First recognizes this Tribal Government Consultation Policy will be a developing document, changing as circumstances and Tribal input indicate a need for revisions.